

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BENJAMIN FONKEM,)	
Plaintiff,)	CIVIL ACTION
)	NO. 04-10754-EFH
v.)	
)	
DEAN O'MALLEY AND)	
TIMOTHY AHERN, in their individual capacities,)	
Defendants.)	

**DEFENDANT TIMOTHY AHERN'S REQUEST FOR ENTRY OF
FINAL JUDGMENT**

Defendant Timothy Ahern hereby moves, under Fed. R. Civ. P. 54(b), for the entry of final judgment as to all of the claims against him. As grounds, Ahern cites the following:

- 1.) The plaintiff accepted an offer of settlement in March 2006 but then without explanation failed to sign the requisite release or stipulation of dismissal.
- 2.) Prior to the Court's status hearing of November 16, 2006, plaintiff's counsel successfully moved to withdraw, but nevertheless appeared at the status hearing. Along with counsel for both defendants, the plaintiff's former attorney informed the Court of the plaintiff's unexplained failure to sign the release or to communicate his intentions. Plaintiff was given notice of the motion to withdraw and of the status conference, but chose not to appear.
- 3.) After the hearing, the Court issued an Order of Dismissal, attached hereto as Exhibit A, in which the plaintiff was given until December 18, 2006 to execute the release or suffer dismissal of his action.

- 4.) On December 18, 2006 the plaintiff filed a handwritten paper asking for one month to retain a lawyer. See plaintiff's letter, attached as Exhibit B. The paper was not served on defense counsel, and the defendant had no knowledge of the filing until the Court docketed it on January 29, 2007.
- 5.) Despite the plaintiff's representation, no lawyer has entered an appearance on his behalf, the plaintiff has not been heard from, and no release has been executed as far as is known.
- 6.) Therefore, the plaintiff has done nothing to prosecute this action for nearly one year. He has not complied with the Court's Order of Dismissal, and he has not complied with his own requested time frame for obtaining representation.

Wherefore, for all of the foregoing reasons, defendant Timothy Ahern requests that a separate and final judgment be entered in his behalf.

Respectfully submitted,

/s/ Thomas P. Campbell
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Dated: January 30, 2007